

MOBILEHOME PARK CONVERSIONS

SEC. 10-3.850 FINDINGS, INTENT AND APPLICABLE LAW. A majority of mobilehome residents in the City of Hayward have significant personal and social ties to the community and virtually all mobilehome owners have made a substantial financial investment in their mobilehomes. Mobilehome owners in the City of Hayward elected to make this financial investment in part to secure certain social as well as economic benefits they enjoy in close, secure physical surroundings. A significant proportion of mobilehome residents are senior citizens, many of whom live on limited or fixed incomes. In addition, the cost and risk of potential damage in moving mobilehomes is great, as is the cost of preparing a new site and meeting the code requirements for reinstalling a mobilehome. Unlike other residents of the City of Hayward who rent their dwelling units or even those who own their own homes, mobilehome owners cannot relocate easily within the City of Hayward or Alameda County because of the scarcity of vacant mobilehome sites and/or cost of relocation. It is necessary that the provisions of the Conversion Provisions be applied to mobilehome park subdivisions so that the potential adverse effects of a change in the form of ownership or use are prevented or minimized.

A unique risk to a significant segment of the City's residents is therefore presented when a mobilehome park is converted from a park owned by a single entity in which sites are rented into a form of ownership in which individual sites may be owned. Furthermore, the protection offered by City of Hayward Ordinance No. 89-057 C.S., as amended through Ordinance No. 05-02, Mobilehome Space Rent Stabilization Ordinance, is likely to be lost by a significant number of mobilehome park residents who are unable to afford to buy their mobilehome spaces.

The State Legislature has provided a basis for protecting mobilehome owners in the enactment of Government Code Sections 66426, 66427, 66427.4, 66427.5 and 66428.1, as well as the Mobilehome Parks Act located in the Health and Safety Code Section 18000 et seq., and the Mobilehome Residency Law (MRL) found in the Civil Code Section 798 et seq. These legislative sections are the bases for all mobilehome and mobilehome park regulations within the State of California and are the bases for the conversion provisions that follow.

These provisions (the "Conversion Provisions") address the need for standards and procedures pertaining to mobilehome park conversions to resident ownership pursuant to Government Code Sections 66427.5 and 66428.1 only. The Conversion Provisions do not apply to a change in use or cessation of use of property as a mobilehome park.

In addition, the Conversion Provisions are intended to implement state laws regarding the conversion of mobilehome parks to resident ownership; ensure that conversions to resident ownership are bona fide resident conversions in accordance with state law; maintain consistency with the housing goals and policies of the City's general plan and zoning code; ensure that park residents receive appropriate and timely

information to assist them in fully understanding their rights and obligations under the statute; and ensure the public health and safety in converted parks.

SEC. 10-3.855 DEFINITIONS. Whenever any of the following names or terms are used herein, each such name or term shall be deemed and construed to have the meaning ascribed to it as follows:

The following terms used throughout the Conversion Provisions are described and defined below and shall have the following meanings:

- ~~(a) Association. An entity comprised of all parties who have a property interest resulting from ownership in the project. The entity exists for the purpose of management, maintenance, preservation, operation, and enforcement of entity adopted rules and regulations within the project.~~
- (ba) Common Area. The entire project, excepting all units therein or any parcels of land not owned in common.
- (eb) Conversion. The change in ownership structure of a mobilehome park from a rental park to resident ownership pursuant to Government Code Sections 66427.5 and 66428.1.
- (ec) Homeowners Association. An organization of people who are mobilehome residents in a given mobilehome park whose major purpose concerns matters of common interest within the mobilehome park.
- (ed) Manufactured Home. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; "Manufactured home" includes a mobilehome subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Section 5401, et seq.).
- (fe) Mobilehome. A structure that meets the requirements of Section 18007 of the Health and Safety Code. "Mobilehome" does not include a commercial coach, as defined in Section 18001.8, factory-built housing, as defined in Section 19971, or a recreational vehicle, as defined in Section 18010.
- (gf) Mobilehome Accessory Building or Structure. Includes, but is not limited to, any awning, portable, demountable, or permanent cabana, ramada,

storage cabinet, carport, skirting, heater, cooler, fence, windbreak, or porch or other equipment established for the use of the occupant of the manufactured home or mobilehome.

- (hg) Mobilehome Owner. The person who has a tenancy in a mobilehome park under a rental agreement.
- (hh) Mobilehome Park. Any area or tract of land where two or more mobilehome lots are rented or leased or held out for rent or lease, to accommodate mobilehomes used for human habitation. The rental paid for any mobilehome shall be deemed to include rental for the lot it occupies.
- (hi) Mobilehome Resident. A mobilehome owner or mobilehome tenant.
- (hj) Mobilehome Tenant. A tenant, subtenant, lessee, or sub lessee, or any other person entitled to the use or occupancy of a mobilehome under a rental agreement, lease, or other expression of tenancy. Any notice to a mobilehome tenant required hereunder need be given to only one such tenant in the case of multiple tenants of any mobilehome.
- (hk) Project. The entire parcel of real property to be divided into common areas and lots for individual ownership or stock cooperative ownership including all structures thereon which are owned or controlled by the subdivider.
- (l) Resident Organization. An entity formed by homeowners in the mobilehome park as a nonprofit corporation, pursuant to Section 23701(v) of the revenue and Taxation Code, stock cooperative corporation, or other entity for purposes of converting the mobilehome park to condominium or stock cooperative ownership interests and for purchasing the mobilehome park from the management of the mobilehome park.
- (m) Site Improvement. Any permanent improvement made to a mobilehome site that cannot be removed without injury either to itself or to the site, including but not limited to, paved patios and parking spaces, permanent decking, and mature landscaping.
- (n) Title 25. Title 25 of the California Code of Regulations relating to Housing and Community Development (HCD).
- (o) Unit. The elements of a project which are not owned in common with other owners in the project or a mobilehome site in a conversion to resident ownership in which the owner has the right of exclusive occupancy.

SEC. 10-3.860 APPLICATION. The Conversion Provisions implement California Government Code Sections 66427.5 and 66428.1 for the standards and procedures to be followed for the conversion of an existing mobilehome park to resident ownership.

(a) Application submittal requirements. In addition to the general subdivision requirements located in Chapter 10, Article 3 of the Hayward Municipal Code, the following information shall be submitted as part of the resident survey results with any subdivision application for conversion to a resident owned mobilehome park pursuant to Government Code Section 66427.5:

- (1) A Tentative Subdivision and Final Map or Parcel Map unless waived pursuant to Government Code Section 66428.1. A parcel map shall be required for all projects that contain less than five parcels and do not create more condominium units or interests than the number of rental spaces that exist prior to conversion. If additional interests are created or if the project contains more than 5 parcels a Tentative and Final Map shall be required. The number of condominium units or interests to be created shall not determine the type of map required unless additional condominium units or interests are created over and above the number of rental spaces that exist prior to conversion.
- (2) A report on the impact of the conversion on the existing residents, known as a tenant impact report or conversion impact report, pursuant to Section 10-3.860(f).

~~(3) A statement of the total number of spaces occupied by residents (excluding any spaces occupied by the subdivider, a relative of the subdivider, or employee of the subdivider); and the total number of votes of such residents in favor of the conversion and the total number of votes in opposition to the conversion, with no more than one vote allocated for each mobilehome space.~~

~~(4) The subdivider shall demonstrate that the procedures and timing used to conduct the survey were in accordance with an agreement between the subdivider and an independent resident homeowners association, if any. In the event that more than one resident homeowners association purports to represent residents in the park, the agreement shall be with the resident homeowners association which represents the greatest number of tenant homeowners in the park.~~

~~(5) A written statement signed by the authorized representative(s) of an independent resident homeowners association verifying that the survey form was approved by the association in accordance with~~

Comment [REP1]: Note that the unduplicated portions of these deleted items has been added to the opening paragraph of section (e).

~~the requirements of subdivision (d)(2) of Government Code 66427.5.~~

- (6) A copy of the information and disclosures provided to tenant households pursuant to Section 10-3.860(e).
- (7) Resident survey of support pursuant to Government Code Section 66427.5(d).

~~(8) Evidence of agreement with a homeowners' association (HOA) for the resident survey and copies of all signed resident surveys.~~

- (9) The current permit to operate for the project mobilehome park; current water pressure test, gas line test; and evidence of earthquake proof gas meter and utilities pedestal compliance.
- (10) Copies of all Title 25 inspection reports for the previous three years. If there has been no Title 25 inspection within that time period then one must be obtained. Subdivider shall provide a list of all deficiencies found on inspection and evidence that all deficiencies have been corrected. In addition, written documentation from California Department of Housing and Community Development that the park complies with all applicable Title 25 requirements shall be provided.
- (11) An engineering report on the type, size, current condition, adequacy and remaining useful life of common facilities located within the park, including but not limited to water systems, sanitary sewer, fire protection, storm water, streets, lighting, pools, playgrounds, and community buildings. The report shall be prepared by a registered civil or structural engineer or a licensed general engineering contractor.
- (12) All legal documents confirming the legal status of the park, including but not limited to, documents (i) prepared for and defining the powers and duties of the proposed homeowner's association, including articles of incorporation, bylaws, and conditions, covenants and restrictions; and (ii) a general title report.

(b) Map Waiver. Pursuant to Government Code Section 66428.1(c), the City shall provide an application for waiver, when at least two-thirds of the owners of mobilehomes who are tenants in the mobilehome park sign a petition indicating their intent to purchase the mobilehome park for purposes of converting it to resident ownership, and a field survey is performed, such that the requirement for a parcel map or a tentative and final map shall be waived unless any of the following conditions exist:

- (1) There are design or improvement requirements necessitated by significant health or safety concerns.
- (2) The City determines that there is an exterior boundary discrepancy that requires recordation of a new parcel or tentative and final map.
- (3) The existing parcels which exist prior to the proposed conversion were not created by a recorded parcel or final map.
- (4) The conversion would result in the creation of more condominium units or interests than the number of tenant lots or spaces that exist prior to conversion.

The waiver application shall be approved or denied by the Planning Director within 50 days after such application is deemed complete. If no such waiver applies, or the waiver is not approved, then a tentative subdivision and final map or parcel map for mobilehome park conversion shall be required. Decisions of the Planning Director may be appealed pursuant to Section 10-1.2845 of the Zoning Ordinance.

(c) Tentative Subdivision and Final Map or Parcel Map for Mobilehome Park Conversion. The tentative map shall contain all the information required on a tentative map for any subdivision, subject to the following alterations and additions:

- (1) In lieu of the contour lines normally required on a tentative map, sufficient elevations of the existing ground so that average slope of the ground can be determined at a minimum of two-foot intervals, where the slope is less than 50 percent and 10-foot intervals where the slope is greater than 50 percent.
- (2) Locations of existing permanent buildings, swimming pools, and recreational areas.
- (3) A parcel map shall be required for all projects which contain less than five parcels and do not create more condominium units or interests than the number of tenant lots or spaces that exist prior to conversion. If additional interests are created or if the project contains more than five parcels a tentative and final map shall be required.

The number of condominium units or interests to be created shall not determine the type of map required unless additional condominium units or interests are created over and above the number of tenant lots or spaces that exist prior to conversion.

(d) Report on the Impact of the Conversion on Existing Residents. A report on the impact of the conversion upon the residents of the mobilehome park to be converted shall be submitted at the time of filing the application for conversion. This

report must include all information required by state law and these Conversion Provisions, including:

- (1) A description of the property, including the number of mobilehomes that are owner-occupied and the number of mobilehomes that are rented. For rented mobilehomes, the nature of the tenancy (e.g., yearly lease or month-to-month) and the name and address of the lessor.
- (2) The rental rate history for each space for each of the previous five years.
- (3) A spreadsheet for the statutory rent increase maximums for lower income households as set forth in Government Code Section 66427.5(f)(2).
- (4) The monthly vacancy rate for each month during the preceding two years.
- (5) To the extent possible, ~~The~~ the components of existing resident households including family size, length of residence, age of residents, estimated household income and whether receiving government rent subsidies.
- (6) The availability of mobilehome spaces within the City limits including the current space rent charged for the space, the amenities offered, and any restrictions on the type or age of the mobilehome that may occupy the space.
- (7) An analysis of moving an existing mobilehome to another site that shall include, but not be limited to, the availability of other sites, the total costs of relocation to a new location, and the likelihood of an existing mobilehome being accepted at other sites.
- (8) In the event the number of available mobilehome spaces within the City is insufficient to accommodate all the residents of the mobilehome park, the report shall include a statement of the availability and cost of any non-mobilehome housing alternatives located within the City. The report shall also include a description of all available mobilehome spaces within 30 miles of the project, the current space rent charged, the amenities offered, whether rent control is in effect, and any restrictions on the type or age of the mobilehome that may occupy the space.

- (9) A market rent survey or appraisal in accordance with nationally recognized professional standards as set forth in Government Code Section 66427.5(f).

(e) Survey of Support of Residents. The survey shall be conducted in accordance with an agreement between the subdivider and the homeowners association, if such association exists. The homeowners association must be independent of the subdivider or mobilehome park owner. In the event there is more than one homeowners association, the agreement shall be with the one having the greater number of members. The survey shall be obtained pursuant to a written ballot and shall be conducted so that each occupied mobilehome space has one vote. The ballot shall not include any question other than whether the voter favors or opposes the proposed conversion. Results of the survey shall be considered as part of the subdivision map hearing, and shall include 1) a statement of the total number of spaces occupied by residents (excluding any spaces occupied by the subdivider, a relative of the subdivider, or employee of the subdivider); and the total number of votes in favor of the conversion and the total number of votes in opposition to the conversion. Evidence of the agreement between the subdivider and the homeowners association, evidence that the procedures and timing used to conduct the survey were in accordance with such agreement, a written statement signed by the authorized representative(s) of an independent homeowners association verifying that the survey form was approved by the association, and copies of all signed resident survey ballots, must be submitted with the application. If there is no written agreement, then the subdivider shall provide signed affidavits, under penalty of perjury, from the subdivider or the subdivider's representative and from two officers of the association setting forth the details of the agreement.

To assist the residents in determining how to respond to the resident survey required by subdivision (d) of Government Code Section 66247.5, the following information and disclosures shall be provided by the park owner to each tenant household sufficiently in advance of the survey to allow its consideration:

- (1) A statement describing the effects that the mobilehome park conversion will have on the application of the rent control provisions of the City of Hayward Mobilehome Space Rent Stabilization Ordinance for both lower income households and for other households who continue residency as tenants. The statement shall specifically describe the effects that the conversion will have on the application of the vacancy control provisions of the Mobilehome Space Rent Stabilization Ordinance, and a statement describing the effects of vacancy decontrol under Government Code Section 66427.5 on the resale value of mobilehomes of both lower income households and of other households who continue residency as tenants. Included with this statement shall be a separate statement prepared by the City summarizing the major provisions of the City's mobilehome park

rent adjustment Ordinance (Ordinance No. 89-057 C.S., as amended through Ordinance No. 05-02).

- (2) A statement specifying the income level that is applicable pursuant to subdivision (f)(2) of Government Code Section 66427.5, to determine whether households in the mobilehome park qualify as lower income household or are not a lower income household, and requesting that the households identify whether they are a lower income household, or are not a lower income household.
- (3) A statement specifying whether the subdivider will begin the phase-in of market level rents pursuant to subdivision (f)(1) and the rent adjustment provisions of subdivision (f)(2) of Government Code Section 66427.5 upon the sale of one lot, upon the sale of more than 50 percent of the lots, or upon the sale of some other percentage of lots.
- (4) A statement specifying the method by which the fair market rent levels authorized by subdivision (f)(1) of Government Code Section 66427.5 will be established, or in the alternative, the specification of the range of rent levels that will be applicable to the subdivided units in the mobilehome park, including, but not limited to, the inclusion of any inflation adjustment formula to be utilized.
- (5) A statement specifying how space rents will be set for purchasers of mobilehomes, but not the lot, formerly owned by lower-income households and for other households who continue residency as tenants under subdivision (f) of Government Code Section 66427.5.
- (6) A statement specifying the method by which the sales prices of the subdivided units will be established, or in the alternative, the specification of the range of purchase prices that will be applicable to the subdivided units in the mobilehome park, including, but not limited to, the inclusion of any inflation adjustment formulas to be utilized.
- (7) A statement specifying the method for determining and enforcing the controlled rents for non-purchasing households pursuant to Government Code Section 66427.5(f)(2), and, to the extent available, identification of the number of tenant households likely to be subject to these provisions.
- (8) Identification of the potential for non-purchasing residents to relocate their homes to other mobilehome parks within Alameda

County, including the availability of sites and the estimated cost of home relocation.

- (9) An engineer's report on the type, size, current condition, adequacy, and remaining useful life of each common facility located within the park, including, but not limited to, water systems, sanitary sewer, fire protection, storm water, streets, lighting, pools, playgrounds, and community buildings. A pest report shall be included for all common buildings and structures. "Engineer" means a registered civil or structural engineer, or a licensed general engineering contractor.
- (10) If the useful life of any of the common facilities or infrastructure is less than thirty years, an engineer's estimate of the cost of replacing such facilities over their useful, and the subdivider's plan to provide funding for same.
- (11) An estimate of the annual overhead and operating costs of maintaining the park, its common areas and landscaping, including replacement costs as necessary, over the next thirty years, and the subdivider's plan to provide funding for same.
- (12) A maintenance inspection report conducted within the previous twelve calendar months, demonstrating compliance with Title 25 of the California Code of Regulations ("Title 25 Report"). Proof of remediation of any Title 25 violations or deficiencies shall be confirmed in writing by the California Department of Housing and Community Development (HCD).
- (13) A detailed description of the City and State procedures to be followed for the proposed conversion, including, but not limited to, a tentative timeline.
- (14) The phone number and address of an office designated by the City that can be contacted for further information relating to the proposed mobilehome park conversion.
- (15) The subdivider shall attach a copy of the Conversion Provisions to each survey form.

(f) Information and disclosure requirements for impact report. The report by the subdivider on the impact of the mobilehome park conversion required by subdivision (b) of Government Code Section 66427.5 shall include, but not be limited to, the following disclosures:

- (1) That information specified by subsections (1) through (13) of Section 10-3.860(e) required to be provided to park tenants for purposes of the resident survey.
- (2) A statement specifying the number of mobilehome spaces in the park and the rental rate history for each such space over the four years prior to the filing of the application.
- (3) A statement specifying the method and timetable for compliance with Government Code Section 66427.5(a), and, to the extent available, an estimate of the number of existing tenant households expected to purchase their units within the first four years after conversion including an explanation of how the estimate was derived.
- (4) An estimate of the number of residents in the park who are lower income households pursuant to subdivision (f)(2) of Government Code Section 66427.5, including an explanation of how the estimate was derived.
- (5) An estimate of the number of residents in the park who are seniors (62 years of age or older) or disabled, including an explanation of how the estimate was derived.

SEC. 10-3.895 AVOIDANCE OF ECONOMIC DISPLACEMENT. The subdivider shall avoid any economic displacement of any nonpurchasing resident by the following:

- (a) **Non-Lower Income Households.** As to nonpurchasing residents who are not lower income households, as defined in Section 58079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, in equal annual increases over a four-year period, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards.
- (b) **Lower Income Households.** As to nonpurchasing residents who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

SEC. 10-3.905 HOMEOWNERS ASSOCIATION RESIDENT ORGANIZATION CONDITIONS, COVENANTS AND RESTRICTIONS. All residential subdivisions of a mobilehome park shall require the establishment of an association organization or corporation for the purpose of managing and maintaining the facilities, improvements, and structures within the common area. To formalize the obligations of the association organization, conditions, covenants, and restrictions (CC&Rs) shall be required. The CC&Rs shall state the City has the right, but not the obligation, to abate public nuisance conditions in the common area if the association organization or corporation fails to do so, and to assess the cost to the association organization, corporation, or individual lot owners. To accomplish this, the CC&Rs shall contain a statement with the appropriate language changes clarifying the form of ownership.

Evidence of compliance with the above described requirements shall be submitted to the City for approval by the Planning Director and City Attorney prior to the approval of a final map or parcel map.

SEC. 10-3.910 FINDINGS. No tentative or parcel map for the subdivision of a mobilehome park shall be approved unless the findings required by the Subdivision Map Act and the following findings are made:

- (a) The conversion is consistent with the housing goals and policies of the City of Hayward general plan and zoning code, and any applicable specific or area plan.
- (b) The conversion impact report and resident survey of support are adequate and filed with the City, and that all of the requirements of Government Code Section 66427.5 and the Conversion Provisions have been met.
- (c) The subdivider has provided a complete and current Title 25 inspection report with written documentation from the California Department of Housing and Community Development that all deficiencies and/or violations have been corrected.
- (d) The project complies with all applicable Federal, State and City laws, regulations and codes.
- (e) The project is a bona fide resident conversion. For purposes of determining whether a proposed conversion is a bona-fide conversion, the following presumptions shall be applied based on the results of the survey of resident support conducted in accordance with Government Code 66427.5 and with the Conversion Provisions. The presumptions created by this subsection may be overcome through the submission of substantial evidence either at or prior to the hearing.

- (1) Where the survey of resident support shows that 50 percent or more of the resident survey vote supports the conversion to resident ownership, the proposed conversion shall be presumed to be a bona-fide resident conversion. Any interested person opposing the conversion shall have the burden of demonstrating that the ~~proposed conversion is not a bona fide resident conversion~~ adverse effects of the proposed conversion are not prevented or minimized.
- (2) Where the survey of resident support shows that less than 50 percent of the resident survey vote supports the conversion to resident ownership, the proposed conversion shall be presumed to not be a bona-fide resident conversion. The subdivider shall have the burden of demonstrating that the ~~proposed conversion is a bona-fide resident conversion~~ adverse effects of the proposed conversion are prevented or minimized.

SEC. 10-3.915 TENANT NOTIFICATION. The following tenant notifications are required:

- (a) If the application for conversion is approved, the subdivider shall give each resident household written notice of its exclusive right to contract for the purchase of the unit of space it occupies at the same or more favorable terms and conditions than those on which such unit of space shall be initially offered to the general public. The right shall run for a period of not less than ninety days from the issuance of the subdivision public report (“white paper”) pursuant to California Business and Professions Code Section 11018.2, unless the subdivider received prior written notice of the resident’s intention not to exercise such right.
- (b) If the application for conversion is approved, the subdivider shall give each resident household written notice of its right to continue residency as a tenant in the park as required by Government Code Section 66417.5(a).